

FILED

February 23, 2024

**OFFICE OF
APPELLATE COURTS**

STATE OF MINNESOTA

IN SUPREME COURT

ADM09-8008

**ORDER PROMULGATING AMENDMENTS TO THE
RULES OF THE MINNESOTA STATE BOARD OF
CONTINUING LEGAL EDUCATION**

On October 5, 2023, the Minnesota State Board of Continuing Legal Education filed a petition recommending amendments to the Rules of the Minnesota Board of Continuing Legal Education, that would require all lawyers to report at least one credit on the topic of mental health and substance use in the legal profession and in the practice of law for each reporting cycle. *See* Petition of the Minnesota State Board of Continuing Legal Education for Amendment of the Rules of the Minnesota State Board Continuing Legal Education, ADM09-8008 (Minn. filed Oct. 5, 2023).

By order filed on November 3, 2023, we established a period for the public to file written comments in response to the petition and proposed amendments. *See* Order Establishing Public Comment Period on Petition for Proposed Amendments to the Rules of the Minnesota Board of Continuing Legal Education, ADM09-8008 (Minn. filed Nov. 3, 2023). Written comments were submitted by Lawyers Concerned for Lawyers and the Minnesota State Bar Association, both of which are in support of the proposed amendments.

Having carefully considered the petition and written comments, we agree with the proposed recommendations.

In addition, amendments promulgated by order dated December 22, 2023 are reflected in the attached. *See* Order Regarding the Rules of the Minnesota State Board of Continuing Legal Education, ADM09-8008 (Minn. Filed Dec. 22, 2023).

IT IS HEREBY ORDERED THAT:

1. Consistent with our December 22, 2023 order, the attached amendments to Rule 6 of the Rules of the Minnesota Board of Continuing Legal Education are effective as of the first reporting period after January 1, 2024.

2. The attached amendments to Rules 2 and 9 of the Rules of the Minnesota Board of Continuing Legal Education, along with updated cross-references to those rules, are prescribed and promulgated, effective on July 1, 2024. CLE Category 1 lawyers due to report August 31, 2024, for the July 1, 2021 to June 30, 2024, reporting period will not be required to report a “mental health and substance use disorder” credit. CLE Category 2 lawyers due to report August 31, 2025, for the July 1, 2022 to June 30, 2025, reporting period will be the first group of lawyers required to report this credit.

Dated: February 23, 2024

BY THE COURT:



Natalie E. Hudson
Chief Justice

**AMENDMENTS TO THE RULES OF THE MINNESOTA STATE BOARD
OF CONTINUING LEGAL EDUCATION**

Effective as of the first reporting period after January 1, 2024

[Note: in the following amendments, deletions are indicated by a line drawn through the words and additions by a line drawn under the words.]

Rule 6. Special Categories of Credit

* * *

D. On-Demand Courses. A lawyer may claim ~~up to 30 hours of credit within the 45-hour CLE period~~ for on-demand courses as defined in Rule 2R, subject to the following provisions:

- (1) The course meets all other requirements of Rules 2, 5, & 6;
- (2) The course sponsor agrees to have one or more faculty members accessible to all participants via electronic or other means through the 24-month period during which the program is approved for Minnesota CLE credit;
- (3) The course sponsor or course applicant completes and submits to the Board an Application for Course Approval; and
- (4) The approval for an on-demand course is valid for 24 months after the date of approval by the Board office.

* * *

**AMENDMENTS TO THE RULES OF THE MINNESOTA STATE BOARD
OF CONTINUING LEGAL EDUCATION**

Effective on July 1, 2024

[Note: in the following amendments, deletions are indicated by a line drawn through the words and additions by a line drawn under the words.]

Rule 2. Definitions

* * *

H. “**Course in mental health and substance use in the legal profession and in the practice of law**” means a course that educates attorneys about substance use, addiction and/or mental health issues related to the practice of law. This includes, but is not limited to: (a) the reduction of risk for and detection, referral, and treatment of substance use and/or mental health issues and the assistance available for impaired attorneys; (b) recognizing signs of misuse, addiction, and mental health disorders in oneself or one’s colleagues; (c) impairment, intervention, treatment, and available lawyer assistance programs, including steps to assist and refer an affected attorney; and (d) stress management programs which focus on building awareness and reducing the risk of stress-related problems in the law, including, but not limited to, recognizing signs of stress in oneself or one’s colleagues, addressing the connection between stress, burnout, and other factors on the development of mental health issues, work/life balance, instituting preventative measures individually, and the development of policies and practices within a law firm, legal department, or other organization employing lawyers for reducing the risk of impairment, supporting well-being, and guiding organizations on options when an attorney may be impaired.

IH. “**Court**” means the Supreme Court of the State of Minnesota.

JH. “**Director**” means the Director of the Board.

KJ. “**Emeritus status**” is the status of a lawyer who has filed a Retirement Affidavit pursuant to Rule 2(C)(5) of the Rules of the Supreme Court on Lawyer Registration, is not on involuntary restricted status, has submitted an Affidavit of Emeritus Status Appendix IV showing compliance with the requirements of CLE Rule 14, and is authorized by Rule 14 to provide pro bono legal representation to a pro bono client when referred by an approved legal services provider. Emeritus status lawyers remain on restricted status.

LK. “**Established continuing legal education course sponsor,**” for the purposes of Rule 5B, is a person or entity regularly retained by firms or organizations for the purpose of

presenting continuing legal education programs, which is completely independent of the firm or organization for whose members the continuing legal education course is presented.

ML. “**Fee**” means funds made payable to the Minnesota State Board of Continuing Legal Education.

NM. “**In-house course**” means a course sponsored by a single private law firm, a single corporation or financial institution, or by a single federal, state or local governmental agency for lawyers who are members or employees of any of the above organizations.

ON. “**Involuntary restricted status**” means the status of a lawyer licensed in Minnesota who is not in compliance with the educational and reporting requirements of these Rules and who has been involuntarily placed in that status by order of the Court. See Rule 12 for additional provisions.

PO. “**Laboratory setting**” means a mock courtroom, law office, negotiation table, or other simulated setting in which demonstrations are given, role-playing is carried out or lawyers’ activities are taught by example or participation.

QP. “**Law and literature course**” means a course that meets the requirements of Rules 4D and 5A, based upon a literary text and designed to generate discussion, insight, and learning about topics such as the practice of law, the history and philosophy of law, rhetoric, lawyers’ professional or ethical responsibilities, professional development, and the elimination of bias in the legal profession and in the practice of law.

RQ. “**Moderator**” means an individual, knowledgeable in the topic or topics addressed by the course, who guides the discussion and answers questions related to the material presented.

SR. “**On-Demand course**” means archived CLE programming that meets all the requirements of Rule 5A and is available to participants at any time.

TS. “**Participant**” means a lawyer licensed in Minnesota attending an approved course and actively engaged in the subject matter being presented.

UF. “**Pro bono client**” means an individual, who is not a corporation or other organizational entity, and who has been referred to the lawyer by an approved legal services provider or by a state or federal court program.

VU. “**Pro bono legal representation**” means providing legal representation to a pro bono client without compensation, expectation of compensation, or other direct or indirect pecuniary gain.

WV. “**Professional development course**” means a course or session within a course designed to enhance the development and performance of lawyers by addressing issues such as career satisfaction and renewal, stress management, mental or emotional health, substance abuse, and gambling addiction. Professional development courses do not include individual or group therapy sessions.

XW. “**Restricted status**” means the status of a lawyer licensed in Minnesota who has voluntarily chosen not to comply with the educational and reporting requirements of these Rules. See Rule 12 for additional provisions.

YX. “**Submit**” means to communicate information to the Board office in writing or electronic submission:

- (1) through the Board’s Online Attorney and Sponsor Integrated System (OASIS);
- (2) by regular U.S. Mail; or
- (3) by delivery.

ZY. “**Law office management course**” is a course or session within a course designed to enhance the efficient and effective management of the law office by addressing topics of mentoring, staff development, and technology related to a law office.

* * *

Rule 5. Standards for Course Approval

A. General Standards. A course must meet the following standards before approval is granted.

(5) The course shall be presented and attended in a suitable classroom or laboratory setting. A course presented via video recording, simultaneous broadcast, teleconference, or audiotape, or available on-demand or by podcast, may be approved provided that it complies with Rule ~~6E~~ and a faculty member or moderator is accessible to all participants, either in person or via electronic means, allowing all participants to have access to and participate in the question and answer session. No course will be approved which involves solely correspondence work or self-study.

* * *

B. Standards for Course Approval for In-House Courses.

(1) An in-house course as defined in Rule ~~2N~~ will be approved if:

* * *

(2) An in-house course as defined in Rule 2~~N~~~~M~~ that is presented and controlled by an established continuing legal education course sponsor as defined in Rule 2~~L~~~~K~~, may be approved for credit, notwithstanding the fact that the course does not comply with requirements of Rule 5B(1) (b) and (c) above.

(3) An in-house course as defined in Rule 2~~N~~~~M~~ shall not be approved for credit if it is presented primarily for clients or clients' counsel.

* * *

Rule 6. Special Categories of Credit

* * *

C. Mental Health and Substance Use in the Legal Profession and in the Practice of Law. To be approved for mental health and substance use credit, the course or session within the course must meet the following requirements:

(1) Be at least 30 minutes in length;

(2) Be identified on the application as fulfilling the mental health and substance use requirement and be accompanied by a narrative describing how the course or sessions within the course meets the definition of Rule 2H;

(3) Address issues in the legal profession and in the practice of law and not issues of mental health and substance use in society in general;

(4) Be taught by someone with particular knowledge of impairment and well-being in the legal profession; and

(5) Include information on lawyer wellness programs and local resources.

DC. Pro Bono Legal Representation. A lawyer may claim 1 hour of standard CLE credit for every 6 hours of pro bono legal representation as defined by Rule 2~~V~~~~U~~ that the lawyer provides to a pro bono client as defined by Rule 2~~U~~~~T~~ in a legal matter that has been referred to the lawyer by an approved legal services provider as defined by Rule 2B or by a state court or federal court program. No more than 6 hours of credit may be claimed per reporting period by a lawyer for pro bono legal representation. In order to receive CLE credit the lawyer must submit an Affidavit of Pro Bono Representation to the Board (see Appendix II).

ED. On-Demand Courses. A lawyer may claim credit for on-demand courses as defined in Rule 2SR, subject to the following provisions:

- (1) The course meets all other requirements of Rules 2, 5, & 6;
- (2) The course sponsor agrees to have one or more faculty members accessible to all participants via electronic or other means through the 24-month period during which the program is approved for Minnesota CLE credit;
- (3) The course sponsor or course applicant completes and submits to the Board an Application for Course Approval; and
- (4) The approval for an on-demand course is valid for 24 months after the date of approval by the Board office.

* * *

Rule 9. Affidavit of CLE Compliance

* * *

B. Special Categories of Credit. Lawyers must report:

- (1) no fewer than 3 hours of approved courses in ethics or professional responsibility;
- (2) no fewer than 2 hours of approved courses in the elimination of bias in the legal profession and in the practice of law;
- (3) no fewer than 1 hour of approved courses in mental health and substance use in the legal profession and in the practice of law; and
- ~~(3)(4)~~ no more than 6 hours of credit for pro bono legal representation provided pursuant to Rule 6DC and reported by Appendix II; ~~and~~
- ~~(4) no more than 30 hours of credit for on-demand courses.~~

* * *

Rule 12. Restricted and Involuntary Restricted Status

A. Election of Restricted Status. A lawyer duly admitted to practice in this state may elect restricted status as defined in Rule ~~2X~~^W by sending written notice of such election to the Director, except that a referee or judicial officer of any court of record of the State of Minnesota or lawyer employed and serving as attorney or legal counsel for any employer, including any governmental unit of the State of Minnesota, is not eligible to apply for restricted status. A lawyer on restricted status shall not be required to satisfy the educational and reporting requirements of these Rules.

* * *